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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,367	12/11/2003	Hisahide Hattori	088485-0237	2803
23392	7590	01/04/2006	EXAMINER	
FOLEY & LARDNER 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067			FLOURNOY, HORACE L	
			ART UNIT	PAPER NUMBER
			2189	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/734,367

Applicant(s)

HATTORI, HISAHIDE

Examiner

Horace L. Flournoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/17/2005</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

The instant application having Application No. **10/734,367** has a total of 17 claims pending in the application; there are 4 independent claims and 13 dependent claims, all of which are ready for examination by the examiner.

### **INFORMATION CONCERNING OATH/DECLARATION**

#### ***Oath/Declaration***

The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in **37 C.F.R. 1.63**.

### **STATUS OF CLAIM FOR PRIORITY IN THE APPLICATION**

As required by **M.P.E.P. 201.14(c)**, acknowledgement is made of applicant's claim for priority based on an application filed on December 18, 2002 (Foreign Priority 2002-366903).

### **ACKNOWLEDGEMENT OF REFERENCES CITED BY APPLICANT**

As required by **M.P.E.P. 609(c)**, the applicant's submission of the *Information Disclosure Statements* dated **12/11/2003, 06/01/2004, 08/08/2005** and **11/17/2005** are acknowledged by the examiner and the cited references have been considered in the

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examination of the claims now pending. As required by M.P.E.P. 609(c), a copy of the PTOL-1449 initialed and dated by the examiner is attached to the instant office action.

## REJECTIONS BASED ON PRIOR ART

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-17** are rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al.

(U.S. Patent No. 6,530,037 hereafter referred to as Ando).

With respect to independent **claims 1, 5, 9, and 13,**

*"An information recording apparatus [Ando discloses an "information recording apparatus" in column 3, lines 63-64.] for recording data complying with a standard, [Ando discloses this limitation, e.g. in column 34, lines 21-32, "...coincides with the contents of the DVD-ROM standard." ] comprising: a detection unit configured to detect defective areas in an information recording area on an information storage medium, [column 3, lines 50-60] and to detect recordable continuous areas in the information recording area based on the*

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*detected defective areas; [Ando discloses in column 3, lines 40-48, "...means for setting an area to be recorded in the unrecorded area, based on a contiguous data area which has the defective area; means for setting extent portions in the area to be recorded, in such a manner as to avoid the defective area..."]a determination unit [FIG. 1] configured to determine a first recordable continuous area that has a size not less than a first data size of a first recording data unit; [Ando teaches this limitation, e.g. in column 17, lines 8-64.]and a recording unit [FIG.7, "recording unit"] configured to record position information which indicates that the first recording data unit is recorded on the first recordable continuous area in a first specific area of the information recording area, [Ando discloses in column 6, lines 31-34, "FIG. 48 is a diagram to help explain the contents of the contiguous data area boundary position information and its recording location in an embodiment of the present invention;"] and to record the first recording data unit on the first recordable continuous area, [See column 55, lines 13-20, e.g.]on the basis of a determination result of the determination unit." [See column 55, lines 13-20, e.g. and column 56, lines 30-46.]*

With respect to **claims 2, 6, 10 and 17,**

*"An apparatus according to claim 1, wherein the standard is a DVD-Video standard."***[Ando discloses this claim in column 34, lines 21-25.]**

With respect to **claims 3, 7 and 11,**

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*"An apparatus according to claim 1, wherein the determination unit [FIG. 1] ["information recording and reproducing device..." column 78, lines 1-7] determines to record the first recording data unit of the first data size on the first recordable continuous area of at least the first data size, [See column 55, lines 13-20, e.g.] and determines to record a second recording data unit of a second data size on a second recordable continuous area of at least the second data size, [Ando discloses the above limitations e.g. in column 77, lines 15-50. See FIGs. 79-82] said second recording data unit following said first recording data unit." [Column 56, lines 30-46. Also see column 84, lines 6-11]*

With respect to **claims 4, 8, 12 and 16,**

*"An apparatus according to claim 3, wherein the recording unit [FIG. 7, "recording unit"] records the video management information ["video management data" disclosed in column 50, line 23] which contains playback control information ["playback control information 1021" disclosed in column 49, line 35] used to instruct playback of the second recording data unit after the first recording data unit, [FIGs. 23, 25] said video management information recorded on a second specific area of the information recording area, said recording unit recording the first recording data unit on the first recordable continuous area, [See column 55, lines 13-20, e.g.] and the second recording data unit on the second recordable continuous area." [Ando teaches this limitation e.g. in column 50, lines 6-20. Also see column 84, lines 6-11.]*

With respect to **claim 14,**

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*"An apparatus according to claim 13, wherein: said determination unit [FIG. 1] ["information recording and reproducing device..." column 78, lines 1-7] determines a second recordable continuous area that has a size not less than a second data size of a second recording data unit; and the recording unit records the second recording data unit on the second recordable continuous area, [See column 55, lines 13-20, e.g.] on the basis of another determination result of the determination unit; [Ando discloses the above limitations e.g. in column 77, lines 15-50. See FIGs. 79-82] and wherein said second recording data unit is recorded after said first recording data unit and is separated from the first recording unit by at least one defective area of said information recording area on said information storage medium." [Ando discloses in column 59, lines 30-39, "...in FIG. 35 enables recording data #2 to be recorded immediately behind a defective area..." Also see column 84, lines 6-11]*

With respect to claim 15,

*"An apparatus as recited in claim 14, wherein said recording unit [FIG. 7, "recording unit"] further records location information ["begin sector" column 57, lines 40-65. FIG. 35] specifying the location of said first and second recording data units ["recording data #1, recording data #2" column 57, lines 40-65. FIG. 35] on said information storage medium." ["information storage medium" column 57, lines 40-65. FIG. 35]*

## **CONCLUSION**

### **Status of Claims in the Application**

The following is a summary of the treatment and status of all claims in the application as recommended by **M.P.E.P. 707.07(i)**:

### **Claims rejected in the Application**

Per the instant office action, claims **1-17** have received a first action on the merits and are subject of a **first action non-final**.

### **Direction of Future Correspondences**

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Horace L. Flournoy whose telephone number is (571) 272-2705. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:30 PM (ET).

### **Important Note**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Sparks can be reached on (571) 272-4201. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 746-7239.

Information regarding the status of an Application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or PUBLIC PAIR. Status



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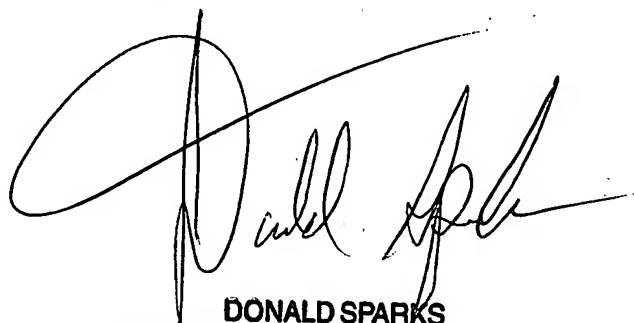
information for unpublished applications is available through Private Pair only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Horace L. Flournoy

Patent Examiner

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**DONALD SPARKS**  
**SUPERVISORY PATENT EXAMINER**